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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 01ST DAY OF APRIL 1998

BEFORE:

THE HON'BLE MR. JUSTICE H. RANGAVITTALACHAR

H.R.R.P. NUMBER 1477/1995

Between:

Sri. B.S. Subbanna,  
aged about 64 years,  
residing at No. 7/1,  
5th Cross, Shankarapuram,  
BANGALORE.

... Petitioner

(By Sri M. Rammohan)

And:

Sri. P. Panduranga Rao,  
S/o. Late Dattu Rao,  
aged about 47 years,  
residing at No. 7,  
Panduranga Nivas,  
5th Cross, Shankarapuram,  
BANGALORE.

... Respondent

(By Sri P. Subba Rao)

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This H.R.R.P. filed u/s 50(1) of the KRC Act,  
against the order dated 26.8.95, passed in HRC  
No. 2204/91 on the file of the court of the XVIII  
Addl. Judge, Court of Small Causes, Bangalore.

This H.R.R.P. is coming on for hearing this  
day, the Court made the following:

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ORDER....

ORDER

This is a tenant's petition against the order of the learned Judge of Small Causes, Bangalore ordering his eviction from the schedule premises.

Respondent herein who is an engineer in the Karnataka Power Corporation filed an eviction petition against the tenant on the ground that he has three grown up daughters besides himself and his wife, the present accommodation in his premises consists of three small rooms, each measuring about 7' x 12', two halls, a veranda, is insufficient for him and his family members and therefore the premises in question which is abutting his premises and forms a part of the same building is required for his own use and occupation. Petitioner also has stated that apart from the members of his family he has to accommodate his sister, who is a widow and her grown up daughter in his house.

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This petition was resisted by the tenant.

The learned Judge of Small Causes on the basis of the evidence adduced by the parties held that the petitioner requires the premises reasonably and bonafide for his own use and occupation and consequently ordered eviction.

This order is challenged in this petition.

Sri Ramamohan learned counsel appearing for the petitioner submitted that the order of the learned Judge suffers from non-application of mind to the evidence on record inasmuch as even though the landlord's sister has stated that she does not intend to stay with her brother, yet that factor has been taken into consideration in passing the order. He also submitted that the learned Judge failed to appreciate that at present

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the landlord is in possession of two rooms, one hall, a kitchen and bathroom which must be held to be sufficient.

Both the contentions are rejected.

In so far as the first contention is concerned, though the landlord's sister has stated that she does not intend to stay with her brother but that is because for want of accommodation in her brothers house she is compelled to reside in a rented premises. Her intention is to join her brother as he has a grown up daughter and she has no male assistance.

In so far as the second contention is concerned admittedly the landlord has got 3 daughters who are in the age group of 11, 13 and 15 years and in order to persue their studies the daughters require accommodation. Besides these three daughters the petitioner also has to accommodate his widow sister and her daughter. It is also admitted that the petitioner is an engineer in the Karnataka Power Corporation and in that capacity he

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requires one Office room for attending to his files and meeting the concerned officers. If these circumstances are taken into consideration the three small bed rooms stated to be in his occupation cannot meet his requirement.

I have gone through the order of the learned Judge. The findings of the learned Judge is based on the evidence of PWs.1 and 2. I do not find any ground to interfere with the said order.

For the reasons stated above, this revision petition is dismissed.

At this stage, the learned counsel appearing for the petitioner-tenant prayed for two years time to vacate the premises.

The learned counsel appearing for the landlord submitted that the tenant has already shifted his residence to Girinagar and he has also shown the Telephone Directory in that regard.

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Having regard to the said submission six months time is granted to the tenant to vacate the premises subject to the following conditions:

1. That he shall file an affidavit undertaking voluntarily to vacate the premises without driving the landlord to file an execution petition.

2. The affidavit shall be filed within 4 weeks from today after serving a copy of the same on the other side.

3. That he shall continue to pay the rent as and when it falls due without default.

Sd/-  
JUDGE